
Commerce & Labor Committee

HB 3068

Brief Description: Prohibiting employer communications about political, religious, or labor organization matters.

Sponsors: Representatives Conway, Chase, McDermott, Dickerson, Sells, Cody, Ormsby, Simpson, Schual-Berke and Hasegawa.

Brief Summary of Bill

- Prohibits an employer from requiring its employees to attend employer-sponsored meetings or to participate in communications with the employer if the primary purpose is to communicate the employer's opinion about religious or political matters, including labor organizing.

Hearing Date: 2/1/06

Staff: Chris Cordes (786-7103).

Background:

Employers are not generally prohibited from requiring employees to attend meetings during which the employer communicates his or her positions on issues.

One exception involves certain communications about labor relations. Both the National Labor Relations Board (Board), in administering private sector collective bargaining under the National Labor Relations Act, and the Washington Public Employment Relations Commission (PERC), in administering most public sector collective bargaining in Washington, apply a doctrine generally known as the "captive audience" doctrine. This doctrine determines when an employer may be prohibited from requiring employees to attend employer-called meetings about unionization and when union representation election activities by labor organizations may be curtailed.

Briefly, under the Board and federal court cases, employers do not commit unfair labor practices by requiring employees to attend speeches about unionization on the employer's premises during working hours as long as the speech is not coercive. Whether speech is coercive generally depends on the content of the speech in the context of the employer-employee relationship. The courts have, for example, prohibited employer statements that threaten retaliation, while allowing the employer to make predictions about the effect of unionization based on objective facts.

The Board, however, has set additional limits for representation elections. Employers (and unions) are prohibited from making election speeches on company time to massed assemblies of

employees within 24 hours before the scheduled time of an election when employee attendance is mandatory. Outside this limit, and subject to the "coercive speech" prohibition, the employer is not prohibited from using captive audiences to make election speeches.

The PERC has adopted a similar rule that prohibits election speeches on the employer's time to massed assemblies of employees beginning when ballots are issued and continuing until the ballots are tallied.

Summary of Bill:

It is unlawful for a public or private sector employer to require its employees to attend employer-sponsored meetings or to participate in communications with the employer if the primary purpose is to communicate the employer's opinion about religious or political matters. "Political matters" include party affiliation or the decision to join or not join a political, social, or community group or a labor organization.

This prohibition does not apply to communications that are required by law and does not prohibit:

- a religious organization from communicating with its employees if the primary purpose is to communicate the employer's religious beliefs or practices;
- a political organization from communicating with its employees if the primary purpose is to communicate the employer's political tenets or purposes; or
- an educational institutions from requiring student instructors to attend lectures on political or religious matters that are part of regular coursework.

An employer may not discharge or discriminate, or threaten such action, against an employee who makes a good faith report of a violation or suspected violation of the prohibition. However, this provision does not apply if the employee knows that the report is false.

An employee aggrieved by a violation of these requirements may, within 90 days after the violation, bring a civil action in Superior Court for treble damages, reasonable costs and attorneys' fees, and any other appropriate relief, including reinstatement and back pay. These remedies do not limit an employee's right to bring a common law cause of action against an employer for wrongful termination and do not impair any collective bargaining rights.

Rulemaking Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.